

Minutes of a Regular Meeting

Approved 2/16/06

Town of Los Altos Hills PLANNING COMMISSION

THURSDAY, FEBRUARY 2, 2006, 7:00 p.m.
Council Chambers, 26379 Fremont Road

cc: Cassettes (1) #2-06

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Cottrell, Commissioners Carey, Kerns, Collins & Clow

Staff: Carl Cahill, Planning Director; Debbie Pedro, Senior Planner; Leslie Hopper, Project Planner; Lani Smith, Planning Secretary

2. PRESENTATIONS FROM THE FLOOR-none

3. PUBLIC HEARINGS

- 3.1 LANDS OF DIGIOVANNI & SANDER, 12380 Hilltop Drive (104-05-ZP-SD-VAR-CDP); A request for a Conditional Development Permit for a 4,360 square foot two-story new residence (maximum height 27 feet), and a variance to allow the chimney to encroach up to 2 feet (area-19.5 square feet) in the side yard setback. The lot area is 0.49 acre and an existing legal-nonconforming swimming pool encroaches up to 17.5 feet in the side and rear yard setbacks (continued from October 13, 2005) (staff-Debbie Pedro).

Staff introduced this item by reviewing the previous application presented on December 8, 2005. Per the direction of the Commission, the applicant has redesigned the home to comply with the setback requirements. However, due to the small available building area on this lot, the chimney will encroach up to 2 feet into the side yard setback and would require a variance. Findings for Conditional Development Permit and variance are included in the staff report. Staff received three emails from neighbors indicating support of this project.

OPENED PUBLIC HEARING

Fiona Sander, applicant, reviewed the property site relating to the development area; existing and proposed to be remove. She summarized the benefits of their new design as follows: within the MDA/MFA numbers; brought the development area into conformance; setback lines in conformance; improving neighborhood privacy by removing all of the floor area within the setback; existing landscaping remains and additional landscaping will be added; increasing the

drainage by removing 47% of the hardscape and installing a new swale French drain along the back of the property. They are also incorporating solar energy. She noted that 11 of 11 neighbors support the project. She also felt that they were preserving the rural character of the neighborhood. She indicated this new design was not their first choice but they felt this was something they could be happy in.

Bob Cole, next door neighbor, voiced support of the project.

Kathy Roskos Selover, representing the property at 12401 Hilltop Drive, read into the record a letter of support dated December 26, 2005, written by her family regarding this proposed project including the small variance request. The letter was in support of the project.

Sandy Humphries, Environmental Design Committee questioned Sheet 7 of the plans, the second story balcony which is under the eve that hangs over the first story. She asked if that was within the setback. Staff indicated that the balcony referred to is located in the back of the house indicating Sandy was correct in that roof eaves are allowed to encroach within setbacks on constrained lots.

Bob Latta, neighbor directly behind the house, voiced support of the project.

CLOSED PUBLIC HEARING

Chairman Cottrell discussed the previous design indicating the current design looks very good. By redesigning they have accomplished two things; you are getting a very nice house to live in (improved the property); and they have not set a precedent that is bad for the other lots in her neighborhood that will come in for development. He voiced support of this project.

Commissioner Carey agreed. He supported the project as well as the request for the 2 foot encroachment.

Commissioner Kerns also voiced support of the project although he preferred the previous design.

Commissioners Collins and Clow concurred with previous comments voicing support of the proposal.

MOTION SECONDED AND PASSED: Motion by Commissioner Kerns and seconded by Commissioner Clow to approve the request for a Conditional Development Permit for a new residence and a variance to allow the chimney to encroach up to 2 feet in the side yard setback., Lands of Digiovanni & Sander, 12380 Hilltop Drive, with the recommended CDP conditions of approval and variance findings.

AYES: Chairman Cottrell, Commissioners Carey, Collin, Clow & Kerns
NOES: None

This approval is subject to a 23 day appeal period.

- 3.2 PREZONING OF UNINCORPORATED SAN ANTONIO HILLS AREA: Prezoning of approximately 82 unincorporated parcels (19.99 acres) east of the Town of Los Altos Hills and south of the City of Los Altos, generally between Magdalena Avenue and Eastbrook Avenue including Spalding Avenue, Par Avenue, Winding Way, Putter Avenue, and Putter Way. The proposed Town of Los Altos Hills zoning designation, Residential-Agricultural, would have no effect unless these lands were annexed to the Town. No such annexation is proposed as a part of this project. No physical changes are proposed as a part of this prezoning application (continued from December 8, 2005) (staff-Debbie Pedro).

Planner Pedro introduced this item. She stated that at the meeting on December 8, 2005 the Planning Commission directed staff to provide additional information regarding the State Housing Element laws and the proposed project as noted in the staff report. She briefly reviewed this project which involves 82 parcels that are located in the Eastbrook/Magdalena neighborhood within the San Antonio Hills area. The purpose of the prezoning is to implement a housing program within the Housing Element that was adopted by the City Council and subsequently certified by the State in 2003. The prezoning does not have any force or effect on the subject properties until the parcels are actually annexed. No annexation is proposed as a part of this project and there are no immediate plans for the Town to annex this area. One resident in the project area has submitted an email indicating support.

Commissioner Kerns referred to the Housing Element, page 43, which indicates 95 lots however this proposal is only for 82 lots. Planner Pedro indicated that when they had done the research for the Housing Element back in 2002/2003, according to the assessor's records, found 92 lots. During a more careful review of the area, found only 82 parcels in this area. Commissioner Kerns continued reviewing pages 43 and 44 which indicates time frame (Dec. 2004), annexation: 2005-2006. This is in the Housing Element with the State coming back to see if they have complied. He asked if the State will put pressure on to ensure they annex this within a certain timeframe. Planner Pedro indicated that they do not know what will happen with the next Housing Element review scheduled for 2009. According to this Housing Element they are committed to just prezoning. The time frame speaks to the annexation process which will follow the prezoning. Chairman Cottrell clarified that you cannot annex unless the residents agree which is a separate process.

OPENED PUBLIC HEARING

Edward Jakle, Winding Way, felt this was a problem. They will be taking the small lot area and incorporate them into Los Altos Hills where there is a one acre minimum. It appears that this annexation is not a possibility but a probability. Also, the people in this community do not seem to have any voice in the matter of whether they are staying with Santa Clara County or going with Los Altos Hills. This process came up before, perhaps 20 years ago, with the residents indicating they were happy with Santa Clara County and they did not need any further laws or regulations. Now it is not a matter of deciding to go with Los Altos Hills or stay with the County. Now it is already determined. He understands that the State is pushing the Hills to have

this housing. Also Santa Clara County has certain single family dwelling regulations. He read from the Los Altos Hills Housing Element. He understood that the County ordinances and restrictions will take effect. He asked if that was their understanding. He further referred to the Initial Study where it states the following: "If the annexation of the subject area were to occur as the result of a future project, the Town will provide for the development standards lots by creating an overlay district and adopt minimum development standards for this neighborhood that are consistent with current Santa Clara County zoning standards for the R1E District". He requested some type of insurance that if this area is in fact annexed they will be following the same requirements currently in place with Santa Clara County.

For clarification, staff discussed the annexation process indicating that the neighbors have a certain amount of time to submit a protest of the action. If there are less than 25% of the voters submitting the protest then the action passes. If between 25% and 50% of the registered voters protest (file a protest) it will need to go to a vote. If more than 50% of the registered voters protest then the annexation would be stopped. The approval of the residents has to be gained before the annexation takes place. If the Town initiates the annexation, they will need to hold public hearings.

Sandy Humphries, Fremont Road, thought that the Town had satisfied the requirements for minimum cost housing through the secondary dwellings. The rezoning indicates that they are going in a different direction. The rezoning lots are only quarter acre parcels. She voiced serious concerns.

Planning Director Cahill stated that the rules are harder now. There is a requirement in the Housing Element law that says you have to provide a diversity of housing types.

Commissioner Kerns felt the State will keep up the pressure. Cahill indicated that the area of the 82 parcels is already within the Town's sphere of influence.

Commissioner Carey asked staff if the Planning Commission does not decide favorably can't the Council still move forward with it. He felt this was not good for Los Altos Hills.

Discussion ensued. When the Planning Commission and the City Council approved the Housing Element they felt the rezoning was appropriate. Cahill thought they should follow through with the action they committed to. Commissioner Collins stated that they have not measured how the Eastbrook/Magdalena residents really feel about annexing into the Town. The Town will make an effort to annex the area, given the consent of the residents. Commissioner Kerns indicated that rezoning is only a step down a path. Commissioner Carey felt the issue was a step towards annexation and they all agree that it is not good for Los Altos Hills or good for the residents of that neighborhood even though it might help them with the State's requirements.

CLOSED PUBLIC HEARING

Commissioner Clow discussed the Council voting for rezoning as it is a symbolic gesture and helps them with the State and they understand that they do not expect to go forward with

annexation as they do not expect the residents would want it. They do not want to bend over backwards to tear apart the zoning laws to make things easy for the residents in this area. He felt comfortable voting against this and basically saying they can live with the Council voting for it. As a Planning Commission they do not want to go on record supporting the annexation as it is inconsistent with the General Plan.

Commissioner Collins felt they need to support the prezoning because they approved the housing plan. They need to go along with the State's requirements to make an effort to diversify the housing stock.

Commissioner Kerns was concerned as the Housing Element indicates annexation within a certain time frame. He agreed with Commissioner Clow stating he has an issue with quarter acre lots. This is not a good precedent as they do not want to set a standard that they are even considering quarter acre lots in Town. The previous application was for a substandard lot which took a great deal of review regarding setbacks, etc.

Commissioner Carey noted that each speaker has brought out excellent points but sides more with Commissioners Kerns and Clow. He felt the annexation was bad for the Town and bad for the area and sees this as a step toward annexation. He was concerned with the penalties for non conformance that was outlined in the staff report. He was concerned that they are taking a step in the wrong direction in terms of complying with what the State expects them to do. As Commissioners, they should vote for what they feel is right at the time not necessarily how Commissioners have voted in the past. He would not support this measure.

Chairman Cottrell sees this as a step in the process, wondering if they couldn't agree to prezoning but also express in the same motion that they are not in favor of annexation. He was inclined to support prezoning simply because it is a necessary step.

MOTION SECONDED AND FAILED: Motion by Commissioner Collins, seconded by Commissioner Cottrell and failed by the following roll call to forward this to the City Council with a recommendation to approve the proposed Prezoning of the Eastbrook/Magdalena area and adopt the Mitigated Negative Declaration.

AYES: Chairman Cottrell, Commissioner Collins
NOES: Commissioners Kerns, Carey & Clow

MOTION SECONDED AND PASSED: Motion by Commissioner Kerns and seconded by Commissioner Clow to forward the application to the City Council with a recommendation to deny the proposed Prezoning of the Eastbrook/Magdalena area.

AYES: Commissioners Carey, Clow & Kerns
NOES: Chairman Cottrell, Commissioners Collins

This item will be scheduled for a future City Council agenda.

4. OLD BUSINESS-none

5. NEW BUSINESS

5.1 Highly Visible Lots (continued from December 8, 2005) (staff-Leslie Hopper)

Staff presented the Ad Hoc Planning Committee's proposed changes to the current code provisions on highly visible lots, as shown in the chart attached to the memorandum. She explained that the Committee found it difficult to define highly visible lots and considered it more appropriate to shift the focus of the regulations to hillside development. She pointed out that under section (c) Configuration of structures, subsection (3) was a new development standard that limits the height of buildings with flat roofs to a maximum height of 22 feet in order to minimize bulky structures. Subsection (7) is also a new standard that addresses the potential impacts of new development on the privacy of neighbors or the character of the neighborhood.

Under section (b) Preservation of ridgelines, hilltops, and scenic views, Chairman Cottrell questioned the consistency of the sentence "Hilltops or ridgelines shall not be cut down, flattened or similarly graded to create a building pad in excess of the actual area covered by the principal residence." Commissioner Carey indicated that the word "hillside" has been omitted, and he suggested adding it in for consistency with the other sections.

Under section (c) Configuration of structures, Commissioner Collins suggested that the first sentence be changed to state "To insure that these structures are unobtrusive **in that they** do not dominate the natural landscape **or impair scenic views...**" This would be consistent with section (b). The View Ordinance has a definition of "scenic views." She also suggested using the word "structures" rather than "buildings" to be consistent. She would reorganize the standards, transposing (5) and (6) because it's a more logical progression. She indicated problems with (7), "The proposed structure shall not significantly affect the privacy of neighbors or neighborhood character," and said this requirement seemed out of place in this context and would be more appropriately addressed elsewhere.

The Commissioners discussed the maximum height for a flat roof at 22 feet, and determined that it should be changed to state that the flat-roofed portion of any structure (rather than the entire house) shall be limited to a maximum height of 22 feet above the ground.

Further discussion ensued regarding subsection (7) on the character of the neighborhood and compatibility, which needs definition. It was agreed to remove (7) as the standard is too subjective and the previous standards 1 through 6 do an adequate job of addressing the needs.

Carol Gottlieb, Summerhill Avenue, spoke about homes that were built according to the site (compatible with the contours).

Commissioner Kerns indicated that most of the homes in Los Altos Hills are built on hillsides. His concern was with the subjectivity of deciding when a house on a hillside is viewed as highly

visible. A hilltop or ridge top is very clear. Any house in the hills could be viewed by some number of neighbors to be highly visible. There are other properties that are not on hillsides or ridge tops that are highly visible and have neighbors that object to them because of where they are located. He would like clear, objective rules of when something is viewed as highly visible or a hillside.

OPENED PUBLIC HEARING
CLOSED PUBLIC HEARING

Commissioner Kerns was concerned with scenic views and the interpretation of what that means. He felt he would need to review the Scenic View Ordinance. It was suggested to refer to the View Ordinance.

Commissioner Collins agreed with the "hillside" wording although not every lot on a hillside would be subject to these standards because they would have to have an impact on scenic views.

Planner Hopper reviewed the suggested changes as follows:

- Section (b), First sentence: natural topographic or landscape features ~~which would cause so~~ **that** structures blend with their natural surroundings.
- Section (c), second sentence, To insure that these structures are unobtrusive ~~and in that they do~~ not dominate the natural landscape **or impair scenic views.** . . (3/2 vote)
- Section (c)(3) ~~Buildings with flat roofs~~ **A flat-roofed portion of any structure** shall be limited to a maximum height of 22 feet. (5/0 vote)

It was agreed that this new requirement for flat-roofed portions of structures should also be included in the height ordinance. (Consensus)

- Transpose Section (c)(5) and (6) and eliminate (7). (5/0 vote)

The Planning Commission comments will be incorporated by the Ad Hoc Committee at their next meeting and the final proposed ordinance will be returned to the Planning Commission for a noticed hearing.

6. REPORT FROM THE CITY COUNCIL MEETING

6.1 Planning Commission Representative for January 26th -Commissioner Kerns, reported on the following: cell tower at the Town Hall and the Arastradero public hearing scheduled for the next Council meeting; adoption of Ordinance 442, amendments to the Town's Zoning Code with regard to Fences, Walls, Gates and Columns; and discussion of public schools/public education.

- 6.2 Planning Commission Representative for February 9th -Commissioner Collins
- 6.3 Planning Commission Representative for February 23rd -Cancelled
- 6.4 Planning Commission Representative for March 9th -Commissioner Cottrell

7. APPROVAL OF MINUTES

7.1 Approval of January 19, 2006 minutes

PASSED BY CONSENSUS: To approve the January 19, 2006 minutes.

8. REPORT FROM FAST TRACK MEETING-JANUARY 24 & 31, 2006

8.1 LANDS OF SZEKELY, 13643 Wildcrest Drive (206-05-ZP-SD-GD); A request for a Site Development Permit for 1,571 square foot first and second story addition (maximum height 24'6") (staff-Debbie Pedro). Approved with conditions.

8.2 LANDS OF BYRNE, 23500 Toyonita Road (224-05-ZP-SD); A request for a Site Development Permit for a Major Remodel and 893 square addition. The project includes new stucco siding and a new tile roof (maximum height 22 feet). CEQA Status: exempt per 15301 (e); (staff-Brian Froelich). Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING- JANUARY 31, 2006

9.1 LANDS OF MAHONEY, 12139 Foothill Lane (229-05-ZP-SD); A request for a Permit Modification to an approved Site Development Permit to allow day lighting of a basement (staff-Brian Froelich). Approved with conditions.

9.2 LANDS OF EGGERS/GOUMAS, 12051 Moody Springs Court (261-05-ZP-SD); A request for a Site Development Permit for landscape screening, hardscape improvements and a fence (staff-Debbie Pedro). Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 8:50 p.m.

Respectfully submitted,

Lani Smith
Planning Secretary